J.P. Morgan Property Exchange Inc.

Reverse Like-Kind Exchange Services

An alternative structure

The Reverse Exchange is a variation of the standard Forward Like-Kind Exchange (LKE) that provides a way to defer the tax on capital gains or ordinary recapture from the sale of real and personal property when replaced with Like-Kind assets.

Generally, in a standard Forward LKE, a taxpayer (Exchangor) uses the proceeds from the disposition of property (Relinquished Property) to acquire like-kind property (Replacement Property).

A Reverse LKE enables the Exchangor to acquire (except for tax ownership) and have use of Replacement Property prior to disposing of the Relinquished Property, while still maintaining the tax deferral benefit.

Taking advantage of a safe harbor

Following Internal Revenue Code Section 1031, as well as the Safe Harbor outlined in the IRS's Revenue Procedure 2000-37, JPEX's Reverse LKE Program can help Exchangors navigate the complexities and capture available tax-saving benefits when the timing or value of their transactions force them to acquire Replacement Property before disposing of Relinquished Property.

A valid Reverse LKE requires in part:

- The Reverse LKE involves an Exchange Accommodation Titleholder (EAT). The EAT is an independent third party who parks the Exchangor's Relinquished or Replacement Property prior to or following the exchange period, depending on the facts and circumstances. The EAT must have qualified indicia of ownership at all times from the date of acquisition until transfer.
- The Qualified Intermediary (QI), also an independent third party, is involved to receive, invest and disburse exchange funds in order to facilitate the disposition of Relinquished Property and the acquisition of Like-Kind Replacement Property. The EAT can, but is not required to, act as QI.
- The Exchangor and the EAT must enter into a written agreement known as a Qualified Exchange Accommodation Agreement (QEAA). At the appropriate time in the transaction, the Exchangor and QI enter into an Exchange Agreement and Assignment of Rights. Other documents may include a Call and Put Agreement, Promissory Note, Indemnity Agreement and Lease.
- When parking Replacement Property, the Relinquished Property must be identified no later than 45 days after legal title transfers to the EAT.
- The combined time frame that relinquished or Replacement Property is held in a QEAA may not exceed 180 days from date of transfer to EAT.

Reverse exchange steps

Reverse LKE's are generally structured in one of two ways, "Exchange First" and "Exchange Last." Since these transactions are more complicated than Forward LKEs, it is helpful to understand the steps involved.

Option I — Exchange last

The most common type of Reverse LKE is known as the Exchange Last method where the EAT acquires title to the Replacement Property.

1. An EAT, such as a Delaware Corporation or Limited Liability Company (LLC), is formed. The owner of the EAT must be an independent third party and must not be related to the Exchangor or its agents.
2. In order to acquire and park the Replacement Property with the EAT, the Exchangor arranges money to be loaned to the EAT, either directly from the Exchangor or by guaranteeing the entire amount of a third-party loan granted to the EAT. The EAT uses these funds to acquire the Replacement Property.
3. The seller transfers the Replacement Property to the EAT and the EAT takes title. The EAT is the tax owner of the property and leases the property to the Exchangor for up to 180 days while an ultimate buyer for the Relinquished Property is located.

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4. During this time, the Exchangor may exercise its right to acquire the property at any time during the 180-day period. If the Exchangor has not exercised its option to acquire the property by day 180, the EAT will exercise its put and transfer the property to the Exchangor. Also, on the 45th calendar day after the EAT acquires the Replacement Property, the Exchangor must notify the EAT in writing as to what properties it plans to relinquish.
5. The Exchangor locates a buyer for the Relinquished Property. The Exchangor enters into a contract with the buyer of the Relinquished Property.
6. The LKE begins. The Exchangor assigns its rights in its sales contract to JPEX as QI (with written notice to all parties to the contract), to allow the Exchangor to defer paying capital gains taxes or depreciation recapture on the sale of the Relinquished Property. JPEX is deemed to transfer the Relinquished Property to the buyer when the Exchangor transfers title directly to the buyer. This begins the sale of the Relinquished Property.
7. The buyer pays JPEX, acting as QI, the purchase price for the Relinquished Property, completing the sale of the Relinquished Property. Proceeds from the sale are placed in an exchange account.
8. The Exchangor exercises its option to acquire the Replacement Property from the EAT. The Exchangor assigns its rights in its option to acquire the Replacement Property to JPEX as QI.
9. JPEX, acting as QI, sends the proceeds from the sale of the Relinquished Property (held in the exchange account) to the EAT. The Exchangor provides any additional funds needed to acquire the Replacement Property. The EAT then pays off or is forgiven the loan used to acquire the Replacement Property.
10. JPEX is deemed to transfer the Replacement Property to the Exchangor when the EAT transfers title directly to the Exchangor. The Exchangor's LKE transaction is complete with respect to this parked Replacement Property.

Option II — Exchange First

An alternative to the more popular Exchange Last structure is the Exchange First structure where the property the exchangor wishes to sell, the Relinquished Property, is parked with an EAT and the Replacement Property is acquired directly by the Exchangor.

1. An EAT is formed. The Exchangor enters into a contract to sell the Relinquished Property to the EAT. The Exchangor assigns its rights in the contract to JPEX, as QI, to allow the taxpayer to defer paying capital gains taxes or recapture on the sale of the Relinquished Property.
2. The LKE begins. The EAT borrows from the Exchangor, the funds required to purchase the Relinquished Property from the Exchangor. JPEX is deemed to transfer the Relinquished Property to the EAT when the Exchangor transfers title directly to the EAT.
3. The EAT takes title to the Relinquished Property for up to 180 days and becomes the tax owner. The EAT leases the Relinquished Property to the taxpayer during the 180 days while an ultimate buyer can be located.
4. The EAT transfers the purchase money to JPEX, acting as QI, since the Exchangor cannot have actual or constructive receipt of the proceeds from the sale of the Relinquished Property. These proceeds are held in an exchange account at JPMorgan Chase Bank, NA.
5. The Exchangor locates the Replacement Property it wishes to acquire and enters into a contract with the seller. The Exchangor assigns its rights in its purchase contract to JPEX as QI (with written notices to all parties to the contract). JPEX sends the seller the proceeds from the sale of the Relinquished Property that are being held in exchange account. The Exchangor directly sends the seller any additional funds needed to acquire the Replacement Property.
6. JPEX is deemed to transfer Replacement Property to the Exchangor when the seller transfers title directly to the Exchangor. The LKE is complete.
7. Meanwhile, the Exchangor locates a buyer for the Relinquished Property being held by the EAT. On or before the 180 day deadline from the taking of the title by the EAT, the buyer pays the EAT the purchase price for the Relinquished Property at closing. The

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EAT transfers the Relinquished Property to the ultimate buyer. The EAT pays of the loan from the Exchangor used to acquire the Relinquished Property.

IRS circular 230 disclosure.

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About us

J.P. Morgan Property Exchange Inc. (JPEX) is one of the country's leading providers of IRC Section 1031 Like-Kind Exchange (LKE) and qualified intermediary (QI) services. JPEX has closed billions of dollars in tax-deferred transactions involving many property types such as real estate, aircraft, equipment, and leased or rental vehicles. The hallmark of JPEX is the provision of a high level of personalized service. JPEX's team of experienced professionals is skilled at conducting all types of LKEs.

Treasury regulations disclosure requirements

You and each of your employees, representatives, or other agents may disclose to any and all persons without any limitations of any kind, U.S. federal income tax treatment and U.S. federal income tax structure of the transaction described herein and (except to the extent expressly noted in writing by; J.P. Morgan Property Exchange Inc.) of all transactions that J.P. Morgan Property Exchange Inc. shall describe to you in the future, and in all materials of any kind (including tax opinions or analyses) that are provided to you related to such tax treatment and tax structure.

For more information on JPEX services, contact us at

1-800-397-8529 or visit our Web Site at www.jpex1031.com.